



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**FEB 22 2016**

REPLY TO THE ATTENTION OF:

WW-16J

Craig W. Butler, Director  
Ohio Environmental Protection Agency  
50 West Town Street  
Columbus, Ohio 43215

Re: Ohio EPA's 2014 Integrated Report Section 303(d) List

Dear Mr. Butler:

I am writing to supplement the U.S. Environmental Protection Agency's August 7, 2015 action regarding Ohio's 2014 Section 303(d) list. In its August letter, EPA approved Ohio EPA's 2014 list with one exception. EPA deferred its final decision on the Section 303(d) listing status of the waters beyond Ohio's Western Lake Erie Basin shoreline assessment unit for the Public Drinking Water Supply designated use due to excess microcystin.

In a November 16, 2015 letter, Ohio EPA clarified that its Lake Erie shoreline assessment units extend 100 meters from the shoreline, and include the Public Drinking Water Supply zones (500 yard radius around intakes) associated with the nearest shoreline assessment unit even if the Public Drinking Water Supply zones are greater than 100 meters from the shoreline. Ohio EPA also provided revisions to its 2014 Integrated Report that reflect those clarifications.

Based on Ohio's clarifications, EPA is supplementing its August 2015 decision document. The enclosed supplemental decision document, together with the August 2015 decision document, completes EPA's review and approval of Ohio EPA's 2014 CWA Section 303(d) list.

If you have any questions, please contact Mr. Peter Swenson, Chief, Watersheds and Wetlands Branch, at 312-886-0236.

Sincerely,

A handwritten signature in blue ink, which appears to read "Tinka G. Hyde", is written over the typed name.

Tinka G. Hyde  
Director, Water Division

SUPPLEMENTAL DECISION DOCUMENT APPROVING OHIO'S SUBMISSION  
OF THE STATE'S 2014 INTEGRATED REPORT WITH RESPECT TO  
SECTION 303(D) OF THE CLEAN WATER ACT (CATEGORY 5 WATERS)

On August 7, 2015, the U.S. Environmental Protection Agency (EPA) partially approved the 2014 Clean Water Act (CWA) Section 303(d) list of assessment units (AUs) still requiring total maximum daily loads (TMDLs) by the Ohio Environmental Protection Agency (Ohio EPA). As explained in EPA's decision document, EPA deferred its final decision on the Section 303(d) listing status of the waters beyond Ohio's Western Lake Erie Basin (WLEB) shoreline AU for the Public Drinking Water Supply (PDWS) designated use due to excess microcystin. Since EPA issued its decision document in August 2015, Ohio EPA has clarified the scope of its WLEB shoreline AU. Ohio has clarified that its Lake Erie shoreline AUs include Public Drinking Water Supply zones. For the reasons set forth below, and based on Ohio EPA's recent clarification, EPA hereby supplements its August 2015 decision document. This supplemental decision document, together with the August 2015 decision document, completes EPA's review and approval of Ohio EPA's 2014 CWA Section 303(d) list.<sup>1</sup>

**I. EPA's Deferral on Waters Beyond Ohio EPA's WLEB Shoreline AU**

On its 2014 303(d) list, Ohio EPA, for the first time, listed the shoreline AU of the WLEB as impaired for the PDWS use due to microcystin. For the 2014 listing cycle, Ohio EPA used a numeric microcystin drinking water threshold to assess whether water bodies designated for the PDWS use are impaired. To be impaired due to microcystin under Ohio EPA's methodology for assessing the PDWS use, two or more sample results from an active drinking water intake (taken during the last five years and more than 30 days apart) must be above one microgram per liter for microcystin. According to Ohio EPA's original 2014 303(d) list, it used data from drinking water intakes in Lake Erie, including the WLEB, to determine whether "3 nearshore areas of the lake" were impaired for the PDWS use.

The data Ohio used for its 2014 303(d) list included sampling results from the Toledo and Oregon drinking water intakes that exceeded Ohio's numeric microcystin threshold. It was EPA's understanding that these drinking water intakes were located outside of the physical boundary of the WLEB shoreline AU in Ohio EPA's original 2014 303(d) list. Ohio EPA, however, proposed to include additional Lake Erie AUs that would encompass the physical location of the Toledo and Oregon intakes for the 2016 listing cycle. In August 2015, EPA

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<sup>1</sup> Except as specifically set forth herein, EPA's August 2015 Decision Document Partially Approving Ohio's Submission of the State's 2014 Integrated Report With Respect to Section 303(d) of the Clean Water Act (Category 5 Waters) constitutes EPA's rationale for approving all parts of Ohio EPA's 2014 303(d) list addressed in that August 2015 decision document.

deferred its final decision on the Section 303(d) listing status of waters beyond Ohio EPA's WLEB shoreline AU for the impairment of the PDWS use due to microcystin.<sup>2</sup>

## **II. Ohio EPA's Post-Deferral Clarifications to its 2014 303(d) List Submission**

Following EPA's partial approval and deferral, Ohio EPA provided clarifications to its 2014 Integrated Report regarding its Lake Erie AUs and Ohio's listing of the PDWS designated use in the WLEB. In a letter, dated November 16, 2015, Ohio EPA clarified that its Lake Erie shoreline AUs extend "100 [meters] from the shoreline" and "also include the Public Drinking Water Supply zones (500 yard radius around intakes) associated with the nearest shoreline unit even if [the PDWS zones] are greater than 100 [meters] from the shoreline."<sup>3</sup> Ohio EPA also clarified that the existing and readily available water quality data for microcystin were limited to the newly clarified Lake Erie shoreline AUs.<sup>4</sup>

## **III. Conclusion**

Based on Ohio EPA's November 16, 2015 clarification letter and its revised 2014 Integrated Report, EPA finds that Ohio has met the requirements of Section 303(d) of the CWA by listing waters impaired for the PDWS use due to microcystin. EPA believes Ohio EPA has evaluated existing and readily available microcystin data from the intakes within the WLEB to determine whether the shoreline AU, as clarified, is impaired for the PDWS use due to excess microcystin.<sup>5</sup> Consequently, EPA hereby approves Ohio's 2014 Section 303(d) list in its entirety. This Supplemental Decision Document constitutes EPA's rationale for approving the remainder of Ohio EPA's 2014 Section 303(d) list, specifically, the listing of the PDWS designated use impairment for microcystin in the WLEB that were the subject of EPA's previous deferral.

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<sup>2</sup> EPA's August 2015 deferral was limited to Ohio EPA's decision not to include the waters beyond the shoreline AU of the WLEB for the PDWS use on its 2014 303(d) list; all other waters listed or not listed were approved by EPA in the August 2015 partial approval.

<sup>3</sup> Ohio's revised 2014 Integrated Report, Section D, page D-2 (November 16, 2015).

<sup>4</sup> See Ohio's revised 2014 Integrated Report, Section I, page I-30 (November 16, 2015) (deleting "offshore waters" from the locations where data are available).

<sup>5</sup> Ohio Administrative Code 3745-01-07(B)(3) (providing that the criteria associated with Ohio's public drinking water supply use apply within five hundred yards of surface water intakes).

Enclosure

cc: Karl Gebhardt, OEPA  
Tiffani Kavalec, OEPA